IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE JURISDICTION

CRIMINAL APPEAL NO.135 OF 2007
IN
MISC. APPLICATION NO.686 OF 2006
IN
ANTICIPATORY BAIL APPLICATION NO.447 OF 2006

Payal, wife of Himanshu S. Agrawal
and daughter of Naresh Goyle ...Appellant

V/s.

Mr.Himanshu Suresh Agrawal & Ors. ...Respondents

Mr.R.M. Parekh for Appellant.
Mr.S.S. Pednekar APP for State.

CORAM : V.M. KANADE, J.

DATED : 4th AUGUST, 2007.

P.C:-

1. Heard learned counsel for Appellant.

2. The Appellant takes exception to the order passed by the Sessions Court whereby an application filed by the Appellant herein against the Respondents for making inquiry of the offences committed by the Respondents, U/s.340 Cr.P.C. was rejected by the Additional Sessions Judge.

3. Learned counsel for the Appellant submitted that the Respondents had filed an application for anticipatory bail in Sessions Court and in the said application, false statements have been made on oath. An application was filed by the Appellant and it was prayed that inquiry U/s.340 of Cr.P.C. be commenced against the Respondents. Learned counsel for the Appellant submitted that Sessions Court rejected his application firstly on the ground that since the Appellant had not challenged the order passed by the Trial Court granting anticipatory bail to the Respondents and therefore, the Respondents was not entitled to seek relief which was prayed in his application. He submitted that secondly, since the offence was being investigated and chargesheet was likely to be filed and therefore, Sessions Court held that inquiry U/s.340 of Cr.P.C. was not called for. Learned counsel for the Appellant relied on the judgment of the Apex Court reported in **Godrej & Boyce Mfg. Co. Pvt Ltd. V/s. Union of India reported in 1992 Cri.L.J. 3752**. Ratio of the said judgment will not apply to the facts of the present case.

4. It is not possible to accept the submissions made by the learned

counsel for the Appellant. Section 340 of Cr.P.C. confers discretion on the Court to decide whether investigation and inquiry should be commenced on the application filed by the accused. Sessions Court has exercised its jurisdiction and has held that it is not just and proper to commence inquiry U/s.340 of Cr.P.C.

5. I do not see any reason to interfere with the said order passed by the Sessions Court. View taken by the Sessions Court is plausible view and hence, I do not purpose to interfere with the said order passed by the Sessions Court. Criminal Appeal is dismissed, accordingly.

V.M. KANADE, J.